IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1579 OF 2003
IN
SUIT NO.1518 OF 2003

Dubai Cable Company Pvt. Ltd. ...Plaintiff
Vs.
Nitin Chazed ...Defendant

Ms.Sarita D'Lima for Plaintiff
Mr. Anand Samant for Defendant

CORAM: SMT.R.S.DALVI,J.
DATED: 4TH AUGUST, 2005

P.C.

1. The suit is filed for damages for loss of reputation to the Plaintiff Company to the Defendant and for injunction restraining the Defendant from making publishing or re-publishing the statements made in his Email message to various parties shown therein. The Email message is annexed to Exhibit-A to the Plaint.

2. The Defendant is the Ex-employee of the Plaintiff. He was employed on probation by the Plaintiffs on 15th September, 2000. His services have been terminated on 5th April, 2001. The Defendant has challenged his termination before the relevant authority which application has been rejected on 17th February 2002. An appeal has been filed therefrom. The parties are at dispute about the position of that

appeal at present.

3. The Plaintiffs were in the business of supplying electronic cable links. The Plaintiff is stated to have supplied electronic cable links interalia to CitiBank during the tenure of Defendant. The Defendant claims knowledge of the fact of certain defective supplies made by the Plaintiff. These defective supplies if any, of which the Defendant has knowledge were made during his tenure between September, 2000 and April, 2001. However, the Email at Exhibit-A has been sent by the Defendant on 10th February, 2003, 10 months after his termination from service and after his claim challenging that termination on 17th June, 2002.

4. Primafacie therefore, the Email which was sent out after such delay must be taken to be lacking bonafide made by a disgruntled ex-employee.

5. The contents of Email show that the employees of CitiBank were at risk due to certain misdeeds of few companies. The Defendant refers to ‘‘certain documentary, photographic and Email correspondences’’. The Email shows that the Defendant is ready to part with proofs with any one who has concern for human life.

6. Since this is an action in tort, for an

injunction to prevent defamation, the Defendant is required to show justification for the said Email having been sent out by him. Once such justification is shown the injunction cannot be issued. I called upon the Defendant's Advocate to show me some proof either documentary or photographic to substantiate his allegation of danger to human life. None has been shown.

7. Though there is no affidavit in reply to this Notice of Motion, the Defendant has filed his written statement. Allegations of defective supply is made in para 4. In the written statement no proof as offered by the Defendant has been shown, even primafacie. Hence no justification is made out.

8. The Defendants' Advocate says that the Defendant has not sent out any Email after the Email Exhibit-A and hence, no case for injunction is made out.

9. It is seen that the Email Exhibit-A is vague and made without any particulars. No substantiation of any statements is shown by the Defendant.

10. An ad-interim injunction was issued by Justice Bobde on 10th June, 2003. The Ad-interim order must therefore continue. Hence, the Notice of Motion made absolute in terms of prayer (a). No order as to

costs.

(SMT.R.S.DALVI,J.)